

CHAPTER 31

PROFESSIONS AND OCCUPATIONS

SENATE BILL 21-102

BY SENATOR(S) Buckner and Simpson, Fields, Ginal, Jaquez Lewis, Kirkmeyer, Priola, Woodward;
 also REPRESENTATIVE(S) Duran and Will, Bennett, Bird, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jodeh, Kennedy, Kipp,
 McCluskie, Mullica, Pico, Ricks, Sandridge, Valdez D., Williams, Young.

AN ACT

CONCERNING THE CONTINUATION OF SPECIFIC DENTAL HYGIENIST FUNCTIONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (21)(a)(IV) and (21)(a)(X) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (21) (a) The following agencies, functions, or both, will repeal on September 1, 2021:

(IV) ~~The permitting of dental hygienists to place interim therapeutic restorations in accordance with section 12-220-505;~~

(X) ~~The application of silver diamine fluoride by dental hygienists in accordance with section 12-220-506.~~

SECTION 2. In Colorado Revised Statutes, 12-220-104, **repeal** (14) as follows:

12-220-104. Definitions - rules. As used in this article 220, unless the context otherwise requires:

(14) ~~"Telehealth by store-and-forward transfer" means an asynchronous transmission of medical or dental information to be reviewed by a dentist at a later time at a distant site without the patient present in real time.~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 3. In Colorado Revised Statutes, 12-220-201, **amend as it exists until July 1, 2023**, (1)(oo) as follows:

12-220-201. Grounds for disciplinary action - definition. (1) The board may take disciplinary action against an applicant or licensee in accordance with sections 12-20-404 and 12-220-202 for any of the following causes:

(oo) Failing to comply with ~~section 12-220-506~~ SECTIONS 12-220-501 (1)(a)(II)(C) AND 12-220-503 (1)(g) AND RULES ADOPTED PURSUANT TO THOSE SECTIONS regarding the application of silver diamine fluoride.

SECTION 4. In Colorado Revised Statutes, 12-220-201, **amend as it will become effective July 1, 2023**, (1)(oo) as follows:

12-220-201. Grounds for disciplinary action - definition. (1) The board may take disciplinary action against an applicant or licensee in accordance with sections 12-20-404 and 12-220-202 for any of the following causes:

(oo) Failing to comply with ~~section 12-220-506~~ SECTIONS 12-220-501 (1)(a)(II)(C) AND 12-220-503 (1)(g) AND RULES ADOPTED PURSUANT TO THOSE SECTIONS regarding the application of silver diamine fluoride; or

SECTION 5. In Colorado Revised Statutes, 12-220-501, **amend** (1)(a)(II)(B) and (1)(a)(II)(C); and **repeal** (1)(a)(II)(D) as follows:

12-220-501. Tasks authorized to be performed by dental assistants or dental hygienists - rules. (1) (a) (II) A dental hygienist may:

(B) Identify dental abnormalities for immediate referral to a dentist as described in section 12-220-503 (1)(f); AND

(C) In collaboration with a licensed dentist, prescribe, administer, and dispense, as described in section 12-220-503 (1)(g): Fluoride, fluoride varnish, SILVER DIAMINE FLUORIDE, antimicrobial solutions for mouth rinsing, other nonsystemic antimicrobial agents, and resorbable antimicrobial agents pursuant to rules of the board. ~~and~~

(D) ~~In collaboration with a licensed dentist, apply silver diamine fluoride pursuant to section 12-220-506.~~

SECTION 6. In Colorado Revised Statutes, 12-220-503, **amend** (1)(g)(I) and (1)(g)(III)(B); and **add** (1)(g)(IV) as follows:

12-220-503. What constitutes practicing unsupervised dental hygiene - rules. (1) Unless licensed to practice dentistry, a person is deemed to be practicing unsupervised dental hygiene when the person, within the scope of the person's education, training, and experience:

(g) (I) Prescribes, administers, and dispenses fluoride, fluoride varnish, SILVER DIAMINE FLUORIDE IN ACCORDANCE WITH SUBSECTION (1)(g)(IV) OF THIS SECTION,

antimicrobial solutions for mouth rinsing, other nonsystemic antimicrobial agents, and related emergency drugs and reversal agents in collaboration with a licensed dentist. The board, by rule, may further define the permissible and appropriate emergency drugs and reversal agents. AN ARTICULATED PLAN WITH A COLLABORATING DENTIST FOR DENTAL HYGIENE PRESCRIBING MUST DESCRIBE ANY PROTOCOLS, RESTRICTIONS OR LIMITATIONS, FOLLOW-UP AND REFERRAL MECHANISMS, NOTIFICATION AND DISCLOSURE REQUIREMENTS, AND ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD BY RULE. Dental hygienists shall maintain clear documentation in the patient record of the drug or agent prescribed, administered, or dispensed; the date of the action; and the rationale for prescribing, administering, or dispensing the drug or agent.

(III) A dental hygienist may prescribe the following:

(B) Topical anti-caries treatments as follows, all using sodium fluoride unless otherwise indicated: Toothpastes: 1.1% or less (or stannous fluoride 0.4%); topical gels: 1.1% or less (or stannous fluoride 0.4%); oral rinses: 0.05%, 0.2%, 0.44%, or 0.5%; oral rinse concentrate used in periodontal disease: 0.63% stannous fluoride; fluoride varnish: 5%; SILVER DIAMINE FLUORIDE: 38%; and prophy pastes containing approximately 1.23% sodium fluoride and used for polishing procedures as part of professional dental prophylaxis treatment;

(IV) A DENTAL HYGIENIST MAY PRESCRIBE AND APPLY SILVER DIAMINE FLUORIDE UPON COMPLETION OF A POSTSECONDARY COURSE OR CONTINUING EDUCATION COURSE DEVELOPED AT THE POSTSECONDARY LEVEL THAT SATISFIES THE REQUIREMENTS ESTABLISHED BY THE BOARD AND PROVIDES INSTRUCTIONS ON THE USE AND LIMITATIONS OF APPLYING SILVER DIAMINE FLUORIDE. A DENTAL HYGIENIST MAY COMPLETE THE COURSE DESCRIBED IN THIS SUBSECTION (1)(g)(IV) THROUGH:

(A) A LIVE AND INTERACTIVE COURSE PRESENTATION;

(B) AN ON-DEMAND WEBINAR WITH A COMPLETION QUIZ COMPONENT TO VERIFY PARTICIPATION PRIOR TO THE ISSUANCE OF A CERTIFICATE; OR

(C) ANY OTHER FORMAT APPROVED BY THE BOARD.

SECTION 7. In Colorado Revised Statutes, 12-220-504, **amend** (1)(c) and (1)(d); and **repeal** (1)(e) as follows:

12-220-504. What constitutes practicing supervised dental hygiene.

(1) Unless licensed to practice dentistry, a person who performs any of the following tasks under the supervision of a licensed dentist is deemed to be practicing supervised dental hygiene:

(c) Administering local anesthesia under the indirect supervision of a licensed dentist pursuant to rules of the board, including minimum education requirements and procedures for local anesthesia administration; OR

(d) Placing interim therapeutic restorations pursuant to section 12-220-505. ~~or~~

(e) ~~Applying silver diamine fluoride pursuant to section 12-220-506.~~

SECTION 8. In Colorado Revised Statutes, 12-220-505, **amend** (1)(a), (4)(c), (5), (6), and (7); and **repeal** (1)(c), (1)(d), (2), and (8) as follows:

12-220-505. Interim therapeutic restorations by dental hygienists - permitting process - rules - subject to review. (1) Upon application, accompanied by a fee in an amount determined by the director, the board shall grant a permit to place interim therapeutic restorations to any dental hygienist applicant who:

(a) Holds a license in good standing to practice dental hygiene in Colorado; AND

(c) ~~Carries current professional liability insurance as required pursuant to sections 12-220-307 and 13-64-301(1)(a); and~~

(d) Has completed the following hours of dental hygiene practice as evidenced in documentation required by the board:

(I) ~~Two thousand hours of supervised dental hygiene practice after initial dental hygiene licensure;~~

(II) ~~Four thousand hours of unsupervised dental hygiene practice after initial dental hygiene licensure; or~~

(III) ~~A combination of the hours specified in subsections (1)(d)(I) and (1)(d)(II) of this section as determined by the board by rule.~~

(2) ~~The board may waive the requirement in subsection (1)(d) of this section for a dental hygienist who performs interim therapeutic restorations exclusively under the direct supervision of a dentist.~~

(4) (c) A dental hygienist who obtains a dentist's diagnosis, treatment plan, and instruction to perform an ITR utilizing telehealth ~~by store-and-forward transfer~~ shall notify the patient of the patient's right to receive interactive communication with the distant dentist upon request. ~~Communication with the distant dentist may occur either at the time of the consultation or within thirty days after the dental hygienist notifies the patient of the results of the consultation.~~

(5) A dental hygienist who obtains a permit pursuant to this section may place interim therapeutic restorations in a dental ~~office~~ PRACTICE setting under the direct or indirect supervision of a dentist or through telehealth supervision for purposes of communication with the dentist.

(6) (a) A dentist shall not supervise more than five FULL-TIME EQUIVALENT dental hygienists who place interim therapeutic restorations under telehealth supervision UNLESS GRANTED A WAIVER BY THE BOARD PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION. FOR PURPOSES OF PATIENT REFERRAL FOR FOLLOW-UP CARE, a dentist who supervises a dental hygienist who provides interim therapeutic restorations under telehealth supervision must have AN ACTIVE LICENSE IN GOOD STANDING ISSUED BY THE BOARD AND a physical practice location in Colorado ~~for purposes of patient referral for follow-up care~~ OR WITHIN REASONABLE PROXIMITY OF THE

LOCATION WHERE THE INTERIM THERAPEUTIC RESTORATION IS PLACED.

(b) THE BOARD SHALL PROMULGATE RULES CREATING A PROCESS FOR A DENTIST TO SEEK A WAIVER FROM THE SUPERVISION LIMIT SPECIFIED IN SUBSECTION (6)(a) OF THIS SECTION. AT A MINIMUM, THE RULES MUST SPECIFY THE APPLICATION PROCESS AND WAIVER REQUIREMENTS.

(7) A dental hygienist shall inform the patient or the patient's legal guardian, ~~in writing, and require the patient or the patient's legal guardian to acknowledge by signature, that the interim therapeutic restoration is a temporary repair to the tooth and that appropriate follow-up care with a dentist is necessary~~ IN ACCORDANCE WITH BOARD RULES, THAT THE PATIENT SHOULD FOLLOW UP WITH A DENTIST AS APPROPRIATE.

(8) ~~This section is repealed, effective September 1, 2021. Before the repeal, the permitting of dental hygienists to place interim therapeutic restorations is scheduled for review in accordance with section 24-34-104.~~

SECTION 9. In Colorado Revised Statutes, **repeal** 12-220-506.

SECTION 10. In Colorado Revised Statutes, 25.5-5-321.5, **amend** (2)(b) as follows:

25.5-5-321.5. Telehealth - interim therapeutic restorations - reimbursement - definitions. (2) As used in this section:

(b) "Store-and-forward transfer" means ~~a telehealth by store-and-forward transfer, as defined in section 12-220-104 (14)~~ THE ASYNCHRONOUS TRANSMISSION OF MEDICAL OR DENTAL INFORMATION TO BE REVIEWED BY A DENTIST AT A LATER TIME AT A DISTANT SITE WITHOUT THE PATIENT PRESENT IN REAL TIME.

SECTION 11. In Colorado Revised Statutes, 25.5-8-109.5, **amend** (2)(b) as follows:

25.5-8-109.5. Telehealth - interim therapeutic restorations - reimbursement - definitions. (2) As used in this section:

(b) "Store-and-forward transfer" means ~~a telehealth by store-and-forward transfer, as defined in section 12-220-104 (14)~~ THE ASYNCHRONOUS TRANSMISSION OF MEDICAL OR DENTAL INFORMATION TO BE REVIEWED BY A DENTIST AT A LATER TIME AT A DISTANT SITE WITHOUT THE PATIENT PRESENT IN REAL TIME.

SECTION 12. Effective date. This act takes effect September 1, 2021.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 15, 2021